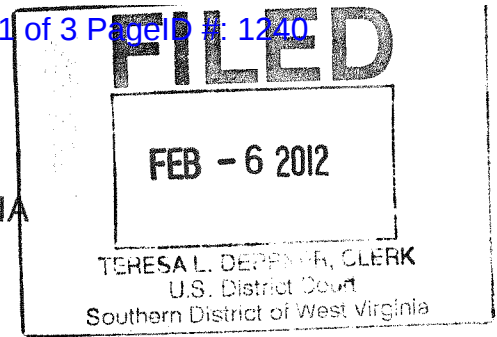


UNITED STATES DISTRICT COURT  
for the  
SOUTHERN DISTRICT OF WEST VIRGINIA



United States of America,  
Plaintiff,

v

Civil Action No.: 10-cv-1087

\$88,029.08

(John F. Tomasic and  
Katherine A. Hoover MD, owners)

MOTION TO RECONSIDER THE COURT'S ORDER REFUSING  
TO BE EVALUATED FOR MENTAL COMPETENCY

Judge Copenhaver, by ruling that he does not need a competency evaluation has violated a fundamental judicial ethic: "A judge cannot rule on himself." It is also true that a person is not able to judge whether or not they are legally competent. That evaluation is done by a doctor and then presented to the Court. Then a Judge rules to accept or reject the competency evaluation done by the doctor or psychologist. John F. Tomasic and Katherine A. Hoover MD want the highest standard of ethics and competency available to them.

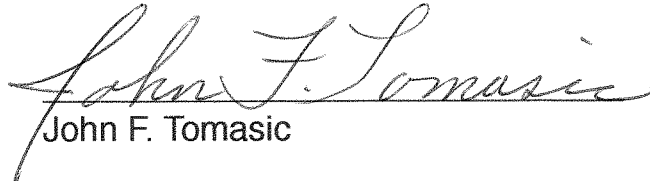
EVALUATION OF JUDGE COPENHAVER'S ORDER


The initial error in the Order which is docket number 147 is a misunderstanding of the Motion at docket 144. The Motion "EVIDENCE IN SUPPORT OF THE NEED FOR A MEDICAL EVALUATION OF JUDGE COPENHAVER" evaluated Your Honor's Order of August 8, 2011 Docket no. 93. The reason that John F. Tomasic and Katherine A. Hoover MD discussed that Order was to demonstrate the inconsistencies in the Order that would provide sufficient evidence for you, Judge Copenhaver, to agree to have an evaluation for mental competency. Judge Copenhaver's Order discusses the September 9, 2011 Order instead. There was no request to reconsider the Order denying an interlocutory appeal regarding subject matter jurisdiction. The Order did not fit the motion. The basis for the mental competency evaluation is clearly demonstrated by the Order filed by Judge Copenhaver, assuming that he wrote it and not his law clerk.

John F. Tomasic and Katherine A. Hoover MD are not requesting an evaluation to be disrespectful. Several federal judges all ready self impose a regular physical and mental evaluation to safe guard the American people from poor decisions. The First Amendment protects the right of Mr. Tomasic and Dr. Hoover to question the actions of the Court, the US attorney and the investigating agents. John F. Tomasic and Katherine A. Hoover MD were surprised by the reaction of AUSA Westfall and Judge Copenhaver. There is no harm in having an evaluation. If the doctor finds Judge Copenhaver competent, that is fine; if the doctor finds Judge Copenhaver incompetent, then Judge Copenhaver should step down. We have not filed a complaint against Judge Copenhaver and we do not plan to because as a reasonable, intelligent man we expect that he will agree to be evaluated.

WHEREFORE, John F. Tomasic and Katherine A. Hoover MD request that Judge Copenhaver voluntarily undergo an evaluation for mental competency.

Respectfully submitted,

  
John F. Tomasic

  
Katherine A. Hoover MD

CERTIFICATE OF SERVICE

I, John F. Tomasic, do hereby certify that a true and correct copy of the foregoing MOTION TO RECONSIDER THE COURT'S ORDER REFUSING TO BE EVALUATED FOR MENTAL COMPETENCY has been sent by Bahamian and United States mail on February 1, 2012 to AUSA Betty Pullin and AUSA Fred Westfall PO Box 1713 Charleston, WV 25326.

A handwritten signature in cursive script, reading "John F. Tomasic", written in black ink.

John F. Tomasic  
c/o Dr. Norman Gay  
N-3222  
West Bay Clinic  
West Bay Street  
Nassau, N.P., Bahamas